

David Boies (admitted *pro hac vice*)
BOIES, SCHILLER & FLEXNER LLP
333 Main Street
Armonk, N.Y. 10504
Tel. (914) 749-8200
Fax. (914) 749-8300
Email: dboies@bsfllp.com

David W. Shapiro (SBN 219265)
BOIES, SCHILLER & FLEXNER LLP
1999 Harrison Street, Suite 900
Oakland, CA 94612
Tel. (510) 874-1000
Fax. (510) 874-1460
Email: dshapiro@bsfllp.com

Attorneys for Theranos, Inc. and Elizabeth Holmes

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

THERANOS, INC. and ELIZABETH
HOLMES,

Plaintiffs,

v.

FUISZ PHARMA LLC, RICHARD C. FUISZ,
and JOSEPH M. FUISZ,

Defendants.

CASE NO. 11-CV-05236-YGR

**PARTIES' JOINT PROPOSED
SCHEDULE AND ORDER RE SAME;
ORDER OF REFERENCE TO
MAGISTRATE JUDGE FOR
SETTLEMENT CONFERENCE**

FUISZ PHARMA LLC,

Plaintiff,

v.

THERANOS INC.,

Defendant.

CASE NO. 12-CV-03323-YGR

Pursuant to the Court's instructions at the Case Management Conference conducted on July 30, 2012, the parties jointly submit the following proposed scheduling order.

EVENT	PROPOSED DATE
Disclosure of Asserted Claims and Infringement Contentions, Accompanying Document Production	August 27, 2012
Invalidity Contentions and Accompanying Document Production	October 11, 2012
Exchange Proposed Terms for Construction	October 25, 2012
Exchange Preliminary Claim Constructions and Extrinsic Evidence	November 15, 2012
Parties to Have Engaged in Mediation	November 16, 2012
Joint Claim Construction and Prehearing Statement	December 11, 2012
Completion of Claim Construction Discovery	January 11, 2013
Opening Claim Construction Brief	January 25, 2013
Claim Construction Response Brief	February 12, 2013
Claim Construction Reply Brief and Amended Joint Claim Construction Statement	February 22, 2013
Technology Tutorial	February 27, 2013
Claim Construction Hearing	March 6, 2013
Joint Case Management Statement	14 days prior to Court's scheduled Case Management Conference
Subsequent Case Management Conference	TBD
Disclosure of Any Advice of Counsel	TBD
Completion of Fact Discovery	March 13, 2013
Deadline for Designation of Expert Witnesses and Initial Expert Reports for Party Bearing Burden of Proof	TBD
Deadline for Rebuttal Expert Reports	TBD
Deadline for Reply Expert Reports	TBD
Completion of Expert Discovery	TBD

EVENT	PROPOSED DATE
Deadline to File Dispositive Motions and any <i>Daubert</i> Motions	TBD
Hearing on Dispositive Motions and <i>Daubert</i> Motions	TBD
Pretrial Conference	TBD (<i>see</i> Pretrial Instructions in Civil Cases)
Trial	TBD (<i>see</i> Pretrial Instructions in Civil Cases)

Dated: August 2, 2012

By: /s/ William Marsillo

BOIES, SCHILLER & FLEXNER LLP

David Boies (admitted *pro hac vice*)

Email: dboies@bsflp.com

William D. Marsillo (admitted *pro hac vice*)

Email: wmarsillo@bsflp.com

Lisa Nousek (admitted *pro hac vice*)

Email: lnousek@bsflp.com

333 Main Street

Armonk, N.Y. 10504

Telephone: (914) 749-8200

Facsimile: (914) 749-8300

David W. Shapiro (SBN 219265)

1999 Harrison Street, Suite 900

Oakland, CA 94612

Telephone: (510) 874-1000

Facsimile: (510) 874-1460

Email: dshapiro@bsflp.com

Attorneys for Elizabeth Holmes and Theranos, Inc.

1 Dated: August 2, 2012

2 By: /s/ Jennifer Ishimoto

3 BANIE & ISHIMOTO LLP
4 Jennifer Ishimoto (SBN 211845)
5 Email: ishimoto@banishlaw.com
6 David Banie (SBN 217924)
7 Email: banie@banishlaw.com
8 1999 South Bascom Ave., Suite 700
9 Campbell, CA 95008
10 Telephone: (650) 549-5651
11 Facsimile: (415) 665-2520

12 *Attorneys for Fuisz Pharma LLC, Richard C.*
13 *Fuisz and Joseph M. Fuisz*

14 **~~PROPOSED ORDER~~**

15 Subject to the Court's modifications to the Joint Proposed Schedule, the Court hereby
16 enters the above proposed schedule as the schedule in these actions.

17 The Court further **ORDERS** that the parties supplement the process of identifying the
18 claims terms to be construed. For each claim, each party shall identify with specificity the
19 intended impact of the proposed constructions on the merits of the case and exchange the same.
20 The Joint Claim Construction Statement shall include each party's impact statement for each
21 claim to be construed.

22 Pursuant to Local Rule 72-1, this matter is referred to Magistrate Judge Grewal, to
23 conduct a settlement conference by no later than November 16, 2012. The parties will be advised
24 of the date, time and place of appearance by notice from Magistrate Judge Grewal. Should the
25 case settle, the parties are ordered to file a Notice of Settlement within two business days so that
26 the Court may vacate any pending dates.

27 **IT IS SO ORDERED.**

28 DATED: August 7, 2012


Hon. Yvonne Gonzalez Rogers
UNITED STATES DISTRICT JUDGE